

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Frank Montgoris	Team: Squad #13	CCRB Case #: 201800803	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/29/2018 7:39 PM	Location of Incident: In Front of 831 Lincoln Place	Precinct: 77	18 Mo. SOL 7/29/2019	EO SOL 7/29/2019	
Date/Time CV Reported Tue, 01/30/2018 12:29 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Tue, 01/30/2018 12:29 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Ashley Griffith	19021	958654	077 PCT
2. POM Gerber Lizardo	15063	960814	077 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Ashley Griffith	Abuse: Police Officer Ashley Griffith stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
B.POM Gerber Lizardo	Abuse: Police Officer Gerber Lizardo stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.	
C.POM Ashley Griffith	Abuse: Police Officer Ashley Griffith frisked § 87(2)(b)	
D.POM Gerber Lizardo	Abuse: Police Officer Gerber Lizardo frisked § 87(2)(b)	
E.POM Ashley Griffith	Abuse: Police Officer Ashley Griffith threatened to damage § 87(2)(b)'s property.	
F.POM Ashley Griffith	Discourtesy: Police Officer Ashley Griffith spoke discourteously to § 87(2)(b)	
§ 87(4-b), § 87(2)(g)		

Case Summary

§ 87(2)(b) filed this complaint with the CCRB via phone on behalf of herself and her friend, § 87(2)(b) on January 30, 2018.

On January 29, 2018, at approximately 7:39 p.m., PO Ashley Griffith and PO Gerber Lizardo, of the 77th Precinct, stopped § 87(2)(b) and § 87(2)(b) in front of 831 Lincoln Place, in Brooklyn (**Allegations A and B: Abuse of Authority**, § 87(2)(g) PO Griffith frisked § 87(2)(b) and PO Lizardo frisked § 87(2)(b) (**Allegations C and D: Abuse of Authority**, § 87(2)(g) PO Griffith allegedly threatened to damage § 87(2)(b)'s property to § 87(2)(b) and allegedly spoke discourteously to § 87(2)(b) (**Allegation E: Abuse of Authority**, § 87(2)(g) **Allegation F: Discourtesy**, § 87(2)(g) § 87(2)(b) was arrested as a result of this incident and charged with § 87(2)(b). A statement from § 87(2)(b) could not be obtained, as he was ultimately unavailable to the investigation. No video footage existed for this case.

Findings and Recommendations

Allegation A – Abuse of Authority: Police Officer Ashley Griffith stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

Allegation B – Abuse of Authority: Police Officer Gerber Lizardo stopped the vehicle in which § 87(2)(b) and § 87(2)(b) were occupants.

It is undisputed that § 87(2)(b) and § 87(2)(b) were sitting in § 87(2)(b)'s vehicle and were blocking a fire hydrant. It is also undisputed that the interior of § 87(2)(b)'s vehicle had a smell of marijuana emanating from it.

Both PO Griffith and PO Lizardo testified that they observed the vehicle blocking the fire hydrant, and initially believed it to be unoccupied. Upon approach of the vehicle, with the intent to write a summons, they observed § 87(2)(b) and § 87(2)(b) in the vehicle, and asked them to roll down their windows with the intent of asking them to move the vehicle. Once the civilians rolled down the windows to speak with the officers, both PO Griffith and PO Lizardo smelled marijuana coming from the interior (Board Reviews 01 and 02).

The operator of a passenger car may stand alongside a fire hydrant provided that the operator remain in the driver's seat and immediately remove the car from alongside the fire hydrant when instructed to do so by any member of the police. NYC Department of Transportation, Section 4-08(e)(2). A person is guilty of criminal possession of marijuana in the fifth degree when he knowingly and unlawfully possesses marijuana in a public place, and such marijuana is burning or open to public view. N.Y.S. Penal Law, Section 221.10(1). An officer may stop an individual when he reasonably suspects that the person has committed, is committing, or is about to commit a crime. People v. DeBour, 40 N.Y.2d 210; 352 N.E. 2nd 562 (1976) (Board Reviews 03, 04, and 05).

§ 87(2)(g)

§ 87(2)(g)

Allegation C – Abuse of Authority: Police Officer Ashley Griffith frisked § 87(2)(b)

Allegation D – Abuse of Authority: Police Officer Gerber Lizardo frisked § 87(2)(b)

It is undisputed that PO Griffith frisked § 87(2)(b) and PO Lizardo frisked § 87(2)(b). Also, it is undisputed that the interior of § 87(2)(b)'s vehicle had a marijuana smell emanating from it.

PO Griffith testified that he asked § 87(2)(b) if she had anything on her that could hurt him, which she denied. Being that everyone generally denies having weapons on them, PO Griffith patted § 87(2)(b)'s pockets, arms, waist, lower chest, feet, and ankles. PO Griffith denied that there were any specific factors or indications that led him to believe that § 87(2)(b) was armed with a weapon (Board Review 01).

PO Lizardo stated that he patted § 87(2)(b)'s waistband and outer pockets as procedure to ensure the safety of himself and PO Griffith. PO Lizardo denied that there were any specific factors or indications that led him to believe that § 87(2)(b) was armed with a weapon (Board Review 02).

The smell of marijuana smoke is sufficient to provide officers with probable cause to search a vehicle's occupants. People v. Chestnut, 43 A.D.2d 260 (1974) (Board Review 06).

§ 87(2)(g)

§ 87(2)(g)

Allegation E – Police Officer Ashley Griffith threatened to damage § 87(2)(b)'s property.

Allegation F – Police Officer Ashley Griffith spoke discourteously to § 87(2)(b)

It is undisputed that there was a dog in the backseat of § 87(2)(b)'s vehicle at the time of this incident.

§ 87(2)(b) alleged that PO Griffith asked for her identification, and that § 87(2)(b) told him that it was in the vehicle. PO Griffith mentioned that he would obtain the identification from the vehicle, and § 87(2)(b) told him that she would get it instead because she did not know how the dog would react to a stranger. PO Griffith then responded, "Oh, I'll shoot that motherfucker" (Board Review 07).

PO Griffith denied saying the alleged phrase, denied ever threatening to harm the dog, and denied using any profanity towards § 87(2)(b) during the incident (Board Review 01).

PO Lizardo did not recall whether PO Griffith told § 87(2)(b) "I'll shoot that motherfucker," and did not recall if PO Griffith threatened to harm the dog. PO Lizardo also did not recall if PO Griffith used any profanity towards § 87(2)(b) during the incident (Board Review 02).

§ 87(2)(g)

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Mediation, Civil, and Criminal Histories

- This complaint was not suitable for mediation.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
[redacted]
[redacted]
- [redacted]
[redacted]
[redacted]
[redacted]
[redacted]
- A Notice of Claim request was submitted with the New York City Comptroller's Office on April 5, 2018. That request is still pending, as of the writing of this report (Board Review 10).

Civilian and Subject Officer CCRB Histories

- [§ 87(2)(b)] has been party to one CCRB complaint, in which she was listed as a witness (Board Review 11).
- This is the first CCRB complaint to which [§ 87(2)(b)] has been a party (Board Review 12).
- PO Griffith has been a member-of-service for two years, and this is the first CCRB complaint to which he has been a subject.
- PO Lizardo has been a member-of-service for two years, and has been a subject in one CCRB complaints and four allegations, none of which were substantiated. [§ 87(2)(g)]
[redacted]

Squad No.: 13

Investigator: _____
Signature Print Title & Name Date

Squad Leader: _____
Signature Print Title & Name Date

